

01-29-04



Attorney Docket No. HTEC-003/01US

PATENT

Express Mail Label Number: EV 316 175 453 US
Date of Deposit: January 27, 2004**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of James R. MAULT et al.

Serial No.: 10/672,071

Examiner: Not yet assigned

Confirmation No.: 4720

Art Unit: 3762

Filed: September 25, 2003

For: APPARATUS AND METHOD FOR DETERMINING A RESPIRATORY
QUOTIENT

Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**REQUEST TO RESCIND PREVIOUS NONPUBLICATION
REQUEST – 37 C.F.R. §1.213(b)**

A Nonpublication Request was filed on September 25, 2003 for the above-identified patent application. The above-identified patent application claims priority to earlier-filed patent applications, and one or more counterpart patent applications directed to the invention(s) disclosed in the earlier-filed patent applications have been filed in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing. However, a counterpart patent application for the above-identified patent application has not been filed in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing.

A Filing Receipt mailed by the United States Patent and Trademark Office on December 31, 2003 contained a statement that the Nonpublication Request and the claimed priority appear to be inconsistent. As discussed above, a counterpart patent application for the above-identified patent application has not been filed in another


country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, and Applicant respectfully disagrees with the statement in the Filing Receipt concerning the inconsistencies of the Nonpublication Request. Nonetheless, and without in any way conceding to the substance of the statement in the Filing Receipt as to the requirements of 37 C.F.R. § 1.213, Applicant hereby rescinds the previously submitted Nonpublication Request filed on September 25, 2003 for the above-identified patent application. By rescinding the Nonpublication Request, Applicant in no way makes any representation as to the scope of the disclosure or scope of the claims of the above-identified patent application or any of the earlier-filed patent applications that are related to the above-identified patent application.

Dated: January 27, 2004

Cooley Godward LLP
ATTN: Patent Group
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155
Tel: (650) 843-5000
Fax: (650) 857-0663

Respectfully submitted,
COOLEY GODWARD LLP

By:



Cliff Z. Liu
Reg. No. 50,834